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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/771,646	02/04/2004	Paul Abrahams	2-648-2	3727

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EXAMINER

CARTAGENA, MELVIN A

ART UNIT PAPER NUMBER

3754

DATE MAILED: 12/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/771,646	Applicant(s) ABRAHAM, PAUL	
	Examiner Melvin A. Cartagena	Art Unit 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 5-8 is/are rejected.
- 7) ☒ Claim(s) 3,4,9 and 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>5032004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by US 3,102,667 to Ullevig.

Ullevig shows a pouring spout as seen in Fig. 5, having an outer front flange 50, an inner rear flange 46, an upper rim sector rim 48 joining the outer front and inner rear flanges to form a sectors slot with a convex curved shape where the inner and outer flange are parallel and have a radii of curvature about an axis perpendicular to the upper plane of the container 12, a shallow central spout 10, the pouring spout is removable attached to the container by lowering the pouring spout into sliding tractive telescoping engagement with the container rim until the pour spout is seated in contact with the sector slot.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 3,102,667 to Ullevig in view of US 2,606,694 to Galletta.

Ullevig shows all claimed features as discussed above except for a substantially flat strainer panel and a plurality of holes. Galletta shows a pour spout 6 formed with a substantially flat strainer 10 adjacent the shallow spout 11 and a group of holes 7 of smaller diameter than the pouring opening 9, as seen in Fig. 2. It would have been obvious to a person with ordinary skill in the art at the time the invention was made to modify the device of Ullevig to include a strainer and small diameter holes to eliminate or filter out solids while dispensing product directly from the container as taught by Galletta.

5. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over US 3,102,667 to Ullevig in view of US 2,812,886 to Weinstein.

Ullevig shows all claimed features as discussed above except for a lower edge of the front flange extending downward below the pouring spout. Weinstein shows a spout as seen in Fig. 4, having an edge 40 extending downward below the pouring spout with its lower point below the protruding spout 42. It would have been obvious to a person with ordinary skill in the art at the time the invention was made to modify the device of Ullevig to include an edge extending downward below the pouring spout to prevent paint from getting into the paint can channel to keep the channel free of paint and properly close the paint can after use as taught by Weinstein.

Allowable Subject Matter

6. Claims 3, 4, 9 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Art Unit: 3754

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Samson shows a pouring spout for paint pots. Zurlinden shows a bottle-pouring cap and closure. Davis shows a removable pouring lip. Spencer shows a paint can attachment ring. Hayduchok shows a paint attachment. DeFrance shows a lid protector for paint cans. Weinstein shows a paint can channel cover and brush support.

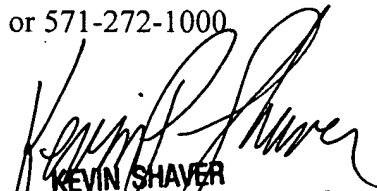
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melvin A. Cartagena whose telephone number is (571) 272-4924. The examiner can normally be reached on T-F (7:30AM to 6:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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11/15/06


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